

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56780; File No. 4-429)

November 13, 2007

Joint Industry Plan; Order Approving Joint Amendment No. 23 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage to Permit the Use of Linkage Prior to the Opening of Trading

I. Introduction

On September 14, 2007, September 19, 2007, August 29, 2007, August 30, 2007, August 29, 2007, and September 26, 2007, the American Stock Exchange LLC (“Amex”), the Boston Stock Exchange, Inc. (“BSE”), the Chicago Board Options Exchange, Incorporated (“CBOE”), the International Securities Exchange, LLC (“ISE”), the NYSE Arca, Inc. (“NYSE Arca”), and the Philadelphia Stock Exchange, Inc. (“Phlx”) (collectively, “Participants”), respectively, filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 11A of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 608 thereunder<sup>2</sup> an amendment (“Joint Amendment No. 23”) to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (“Linkage Plan”).<sup>3</sup> In Joint Amendment No. 23, the Participants propose to modify Section 7(a)(i) of the Linkage Plan to permit trading on Linkage prior to the opening of trading. The proposed Joint Amendment No. 23 was published in the Federal Register on

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<sup>1</sup> 15 U.S.C. 78k-1.

<sup>2</sup> 17 CFR 242.608.

<sup>3</sup> On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket options market linkage proposed by the Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, Phlx, Pacific Exchange, Inc. (n/k/a NYSE Arca, Inc.), and BSE joined the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000); 43574 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

October 12, 2007.<sup>4</sup> The Commission received no comments on Joint Amendment No. 23. This order approves Joint Amendment No. 23.

## II. Description of the Proposed Amendment

The Linkage Plan currently does not permit use of Linkage before an exchange opens for trading and disseminates a quotation in an option series. In Joint Amendment No. 23, the Participants proposed to amend Section 7(a)(i) of the Linkage Plan to permit the use of Linkage prior to the opening of trading. Specifically, Joint Amendment No. 23 would allow Participants to send Linkage P/A Orders<sup>5</sup> to the Linkage prior to the exchange's opening.

## III. Discussion and Commission Findings

After careful consideration of Joint Amendment No. 23, the Commission finds that approving Joint Amendment No. 23 is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that Joint Amendment No. 23 is consistent with Section 11A of the Act<sup>6</sup> and Rule 608 thereunder<sup>7</sup> in that it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets. The Commission believes that allowing Participants to send Linkage P/A Orders to the Linkage prior to the exchange's opening should facilitate investors' intermarket access to superior prices disseminated by Participants other than the one to which the order was initially sent.

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<sup>4</sup> See Securities Exchange Act Release No. 56605 (October 3, 2007), 72 FR 58134.

<sup>5</sup> See Section 2(16)(a) of the Linkage Plan.

<sup>6</sup> 15 U.S.C. 78k-1.

<sup>7</sup> 17 CFR 242.608.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 11A of the Act<sup>8</sup> and Rule 608 thereunder,<sup>9</sup> that Joint Amendment No. 23 is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 15 U.S.C. 78k-1.

<sup>9</sup> 17 CFR 242.608.

<sup>10</sup> 17 CFR 200.30-3(a)(29).